



4410-15

## **DEPARTMENT OF JUSTICE**

### **Notice of Proposed Settlement Agreement and Draft Restoration Plan under the Oil Pollution Act, the Clean Water Act, and the System Unit Resource Protection Act**

Notice is hereby given that the United States of America, on behalf of the Department of the Interior (“DOI”) acting through the National Park Service and the Fish and Wildlife Service, the Department of Commerce (“DOC”) acting through the National Oceanic and Atmospheric Administration (“NOAA”) and the District of Columbia, on behalf of the Department of Energy and Environment (collectively “Trustees”), are providing an opportunity for public comment on a proposed Settlement Agreement (“Settlement Agreement”) among the Trustees and Pepco, LLC (“Pepco”). The Trustees are also providing notice of an opportunity for public comment on a draft Damage Assessment and Restoration Plan (“draft DARP”).

The settlement resolves the civil claims of the Trustees against Pepco arising under their natural resource trustee authority under the Oil Pollution Act, the Clean Water Act, the System Unit Resource Protection Act, and applicable state law for injury to, impairment of, destruction of, and loss of use of natural resources as a result of a January 23, 2011 oil spill at the Pepco Potomac River Substation located in Alexandria, Virginia (“Oil Spill”). The Oil Spill occurred when a pipe broke at the Potomac River Substation, discharging approximately 17,000 gallons of mineral oil dielectric fluid, of which 4,500 gallons were discharged into the Potomac River. Under the proposed Settlement Agreement, Pepco agrees to pay \$326,532 to the DOI Natural Resource Damage Assessment and Restoration Fund to be used to restore, replace, rehabilitate or

acquire the equivalent of those resources injured by the Oil Spill and to compensate the public for lost recreational opportunities, as proposed in the draft DARP. In addition, Pepco agrees to pay \$53,259 to the Trustees for past assessment costs and an additional \$50,000 to the Trustees for restoration planning and oversight costs. Pepco will receive from the Trustees a covenant not to sue for the claims resolved by the settlement, including assessment costs.

In accordance with the OPA, the Trustees have also written a draft DARP that describes proposed alternatives for restoring the natural resources and natural resource services injured by the Oil Spill. The two preferred restoration alternatives selected by the Trustees in the Draft DARP are the operation and maintenance of a Trash Cage Project on the Anacostia River, a tributary to the Potomac River, and the restoration and rehabilitation of vegetation proximate to the Potomac River in the George Washington Memorial Parkway.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement and draft DARP. Comments on the proposed Settlement Agreement should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to the Pepco Potomac River Substation Settlement Agreement, DJ No. 90-5-1-1-11456. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$3.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Comments on the draft DARP may be submitted to the Trustees either electronically or by mail. Comments on the draft DARP may be submitted electronically at <https://parkplanning.nps.gov/PepcoPotomacSpill>. Written comments on the draft DARP should be addressed to Superintendent, George Washington Memorial Parkway Headquarters, Attn. Pepco Draft DARP, 700 George Washington Memorial Parkway, McLean, VA 22101. Please reference: Pepco Potomac River Substation Settlement Agreement, DOI-SOL-ERB-2018-002. All comments must be submitted no later than thirty (30) days after the publication date of this notice.

During the public comment period, a copy of the draft DARP will be available electronically at <https://parkplanning.nps.gov/PepcoPotomacSpill>. A copy of the draft DARP may also be examined at the George Washington Memorial Parkway office. Arrangements to view the documents must be made in advance by contacting the Natural Resource Division at (703) 289-2500.

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